IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

OP.No. 7322 of 2000(V)

PETITIONER:

P.M.IBRAHIM,
S/O.MEERAN, PALLIKKARA HOUSE,
WARD NO.IV, KOOVALLUR P.O.,
VIA.KOTHAMANGALAM.

BY ADV. SRI.BABU KARUKAPADATH
SRI.M.A.ABDUL HAKHIM

RESPONDENTS:

PALLARIMANGALAM GRAMA PANCHAYAT,
KOOVALLUR P.O., (VIA) KOTHAMANGALAM,
REP. BY ITS SECRETARY.

BY ADV. SRI.TPM.IBRAHIM KHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.12235/2000 IN O.P. NO.7322/2000

DISMISSED:

28.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: PHOTOCOPY OF RECEIPT NO.60470 DT.29.5.99 OF THE RESPONDENT ISSUED IN THE NAME OF PETITIONER.

P2: PHOTOCOPY OF RECEIPT FOR RS.11,600/- DT.29.5.99 OF RESPONDENT IN THE NAME OF PETITIONER.

P3: PHOTOCOPY OF NOTICE DT.14.1.2000 ISSUED BY RESPONDENT.

P4: PHOTOCOPY OF REPRESENTATION DT.27.1.2000 SUBMITTED BY PETITIONER TO RESPONDENT.

P5: PHOTOCOPY OF NOTICE DT.4.2.2000 ISSUED BY RESPONDENT.

P6: PHOTOCOPY OF REPRESENTATION DT.9.2.2000 SUBMITTED BY PETITIONER BEFORE THE RESPONDENT.

P7: PHOTOCOPY OF R.R. DEMAND NOTICE OF RESPONDENT ISSUED TO THE PETITIONER.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.7322 of 2000

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Dated this the 28th day of March, 2007.

JUDGMENT

Prayer in the O.P. is for cancellation of revenue recovery proceedings initiated for recovery of amount payable by the petitioner to the respondent-Panchayat towards licence fee for removal of sand from the river for 1999-2000. According to the petitioner, two kadavus were auctioned and petitioner deposited 50% in both the accounts. However, on account of shortage of sand, Panchayat cancelled licence given for one kadavu. Counsel contended that petitioner has not removed any sand from the said kadavu until cancellation of licence. Admittedly petitioner has not deposited balance licence fee for the kadavu for which petitioner was allowed to mine sand which is an amount of Rs.27,550/- payable in 2000. The request of the petitioner was to adjust Rs.11,600/- being the amount paid for mining licence for the other kadavu which was cancelled. In other words, petitioner was liable to pay even according to him, around Rs.14,000/-. According to the petitioner, payment of Rs.15,000/- made under interim order of this court serves the purpose of discharge of this liability. In other words, the dispute is only in respect of Rs.11,600/- paid

by the petitioner for licence for mining from the other kadavu which was later cancelled by the Panchayat. Since no statement or counter affidavit is filed by the Panchayat and Panchayat has not justified the demand, O.P. is disposed of with direction to the Secretary of the Panchayat to verify the records and if mining licence was cancelled at any time, then to grant proportionate reduction of licence fee to the petitioner and demand balance amount if any payable. Petitioner will produce copy of this judgment before the Secretary for compliance, who will inform the recovery authority to limit recovery to the extent authorised by the Panchayat or withdraw the RR proceedings. Revenue recovery proceedings will be kept in abeyance for two months. There will be direction to the Panchayat to communicate the amount if any payable by the petitioner, within six weeks from now. Recovery after six weeks will be limited to actual amount, if found payable by the petitioner.

C.N.RAMACHANDRAN NAIR
Judge

pms